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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/779,512	02/09/2001	Bruno Jechoux	203014US2	7114
22850	7590	01/13/2005	EXAMINER	
OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C. 1940 DUKE STREET ALEXANDRIA, VA 22314			CONTEE, JOY KIMBERLY	
			ART UNIT	PAPER NUMBER
			2686	

DATE MAILED: 01/13/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/779,512	Applicant(s) JECHOUX, BRUNO	
	Examiner Joy K Contee	Art Unit 2686	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 September 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 12-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 12-14 and 17-20 is/are rejected.
- 7) ☒ Claim(s) 15 and 16 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. Applicant's remarks/arguments with respect to claims 12-20 have been considered but are moot in view of the new ground(s) of rejection.

Allowable Subject Matter

2. The indicated allowability of claims 13 and 17 is withdrawn in view of the newly discovered reference to Schlekewey et al. Rejections based on the newly cited reference follow.

Claims 15 and 16 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000.

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Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

4. Claims 12-14 ,17,19 and 20 are rejected under 35 U.S.C. 102(e) as being anticipated by Schlekewey et al. (Schlekewey), U.S. Patent No. 6,181,276.

Regarding claim 12, Schlewekey discloses a method of distributing communications established by radio communication terminal, within a geographic cell of radio-communication network, said geographic cell being subdivided into at least two geographic sectors, the improvement comprising:

dynamically adjusting the sector azimuth pointing angles and/or sector bandwidths to meet changes in loading, such as, during certain times of the day, a sector may service more users than during other time of the day, by synthesizing desired radiation patterns through switching switch matrices to provide the sector signal in the desired area or sector (i.e., reads on rotating an orientation of at least one of said at least two geographic sectors if, in the alternative, a number of links established in one of said at least two geographic sectors is greater than a predetermined number of links) (col. 4,lines 60-66 and col. 6,line 60 to col. 7,line 2 an col. 8,line 55 to col. 9,line 5 and lines 10-43 and see Figs. 2A & 4A).

Regarding claim 13, Schelewekey discloses the method according to claim 12, wherein said step of rotating comprises, in the alternative:

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reconfiguring a beam of a smart antennae (i.e., reads on dynamic configuration of the sectors using adaptable phased array antennas) associated with said at least one of said at least two geographic sectors (col. 7, lines 24-51 and col. 9, lines 10-43).

Regarding claim 14, Scheleweky discloses the method according to claim 12, wherein said step of rotating comprises, in the alternative:

inherently rotating only if a number of links established in at least one of said at least two geographic sectors is less than said predetermined number of links (i.e., reads on switching switch matrices to provide a given sector signal to a corresponding antenna beam) (col. 6, line 60 to col. 7, line 23 and col. 8, line 55 to col. 9, line 5).

Regarding claim 17, Schlewekey discloses the method according to claim 13, wherein when said cell is subdivided into three sectors (see Fig. 2A), inherently said rotation step is not implemented if two of said three sectors have an identical number of established links (reads on time when a cell's capacity is better utilized when spread more homogeneously throughout the cell's coverage area (col. 6, line 60 to col. 7, line 2)

Regarding claim 19, Schlewekey discloses a device for the distribution of communications established by radio-communication terminals, within a cell of a radio-communications network, comprising:

means for rotating an orientation of sectors in said cell according to any one of steps of claims 12-17 (col. 6, lines 1-11 and col. 9, lines 10-43).

Regarding claim 20, Schlewekey discloses a base station for a cell of a radio communications network, comprising: means for distributing communication among

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sectors in a cell according to any one of the steps of claims 12-17 (col. 6, lines 1-11 and col. 9, lines 10-43).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Schlekewey, in view of Keskitalo et al. (Keskitalo), U.S. Patent No. 5,966,670, previously used in rejection.

Regarding claim 18, Schlekewey disclose the method according to claim 12. Schlekewey does not explicitly disclose, wherein said step of rotating comprises: matching a sector rotation speed to a time for carrying out a transfer of communication from one sector to another.

In a similar field of endeavor, Keskitalo discloses matching a sector rotation speed to a time for carrying out a transfer of communication from one sector to another (col. 10, lines 4-15).

At the time of the invention it would have been obvious to one of ordinary skill in the art to modify Schlekewey to include matching sector rotation speed to a time for transferring communication signals for the purpose of minimizing a delay in the transfer of communication signals from one cell or sector to another (e.g., handoffs).

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Conclusion

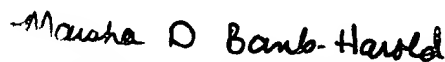
7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joy K Contee whose telephone number is 703-308-0149. The examiner can normally be reached on M (alternating), T & Th, 5:30 a.m. to 2:00 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marsha Banks-Harold can be reached on 703-305-4379. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


JC

01/07/05


MARSHA D. BANKS-HAROLD
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600